

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF NEW YORK

Hearing Date: 8/20/09
Hearing Time: 10:30 a.m.
Hearing Place: Utica

In re:

Damtown Stone & Drilling, Inc.,

Debtor

Case No.: 09-61120
Chapter 11

MOTION FOR RELIEF FROM THE AUTOMATIC STAY

The Motion of WILBER NATIONAL BANK respectfully shows:

1. This is a Motion pursuant to 11 U.S.C. §362(d) and Federal Rules of Bankruptcy Procedure 4001 and 9014, for relief from the automatic stay imposed by 11 U.S.C. §362(a).
2. The Court has jurisdiction over this contested matter pursuant to 28 U.S.C. §1334. This matter is a core proceeding pursuant to 28 U.S.C. §157(b)(2).
3. Wilber National Bank ("Wilber") is a corporation organized and existing under the laws of the State of New York, having an office at 245 Main Street, Oneonta, New York.
4. On November 28, 2008, Wilber loaned Debtor the sum of \$50,510.00 (Loan No. 1042564). Copies of the Commercial Security Agreement, Loan Agreement and Commercial Fixed Rate Promissory Note are annexed hereto as Exhibit "A".
5. The loan is secured by certain equipment (Ingersoll rand 185 Air Compressor, Ingersoll Rand Air Compressor, Ingersoll Rand ECM-370 Drill, Target PC 18 Stone Saw and New Holland Skid Steer LS 180), as more particularly described in the UCC Financing Statements. Copies of said statements are annexed hereto as Exhibit "B."
6. The Debtor has defaulted on the loan and the balance due to Wilber is

\$49,232.99.

7. Debtor lists the value of the equipment as \$24,000.00. Upon information and belief, Debtor has no equity in the equipment and it is no value to the estate.

8. The Debtor has made no adequate protection payments.

9. Wilber has had the equipment appraised by A&D Auction Services, which values the equipment at \$41,000. A copy of the appraisal is attached hereto as Exhibit "C".

WHEREFORE, Wilber National Bank respectfully requests that the stay under U.S.C. Section 362(a) be vacated and terminated as to all collateral as represented, and that an Order be entered permitting Wilber National Bank to exercise any and all of its rights under the notes with respect to its collateral without further application to this Court.

Dated: Binghamton, New York
August 5, 2009



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